



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

MEETING MINUTES

May 26th, 2011

Beginning at 7:30 p.m.

City Hall, Room 209

Setti D. Warren
Mayor

Meeting called to order at 7:50 p.m.

MEMBERS PRESENT: I. Wallach, Chairman, S. Lunin, J. Hepburn, N. Richardson, D. Dickson and J. Sender (Alternate)

MEMBERS ABSENT: D. Green and R. Matthews

MEMBERS OF THE PUBLIC: N. Robbins, Associate member and see attached sign-in sheet

Candace Havens
Director
Planning & Development

Anne Phelps
Sr. Environmental Planner

LATE ADDS TO AGENDA:

61 Verndale asking for more time to provide new plan for compensatory flood storage 25-27 Christina St. (EO) – Asking to lift EO

73 Beaconwood St. new EO-Needs ratification and directions for follow-up CPC funds for Flowed Meadow feasibility study – Vote to give funds back?

Members

Ira Wallach, Chairman
Susan Lunin, V-Chairman
Judy Hepburn, Secretary
Norm Richardson
Roger Matthews
Dan Green
Doug Dickson
Jane Sender, Alternate

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Newton Commonwealth Golf – Report on on-going Maintenance OOC

Report: David Stowe, Manager, reporting.

Meeting: David Stowe, Stirling Management, said he has managed the Golf Course for 19 yrs. He summarized the work of the last 3 years (in commissioners' packets). Prompted by the dredging of Chandler Pond, in Brighton, there was concern that water milfoil from NCG was migrating into the pond. The commission gave permission for chemical treatment at NCG,. The herbicide has not been used since 2005, and the commission extended the Order with the proviso that no more herbicide be applied. Siltation of the pond upstream from street sand, etc., and from eroded structures (bridge) will need attention in the future. It is beyond the scope of this Order to fix those structures. The spillway is tied into an MWRA blowout valve of an aqueduct there. The Permit Extension Act of 2010 provides 2 yrs extension to the present Order, but the commission may ask for a new filing at that time. N. Richardson asked whether there is a drainage problem from water coming off the hill for the west (Kenilworth & Montrose Streets) side. D. Stowe says they did address the stone wall at Kenilworth. Montrose has 2 catch basins. There are no plans to work on this in the near future. They will be addressing some drainage issues on the Brighton side. No action needed at this time.

*Supplementary materials are available for public review in the Planning Department of City Hall on the first Friday following the filing deadline. For more information **contact Anne Phelps at 617.796.1134 or email: aphelps@newtonma.gov**.

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, contact the Newton ADA Coordinator Kathleen Cahill at 617-796-1125 or kcahill@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting.

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Preserving the Past



Planning for the Future

483 Dedham St. Charles River Country Club NOI cont. –Work in riverfront, buffer zone and bordering vegetated wetland

Report: Paul McManus and John Rockwood of EcoTec spoke, Vern Porter, P.L.S. , Paul Beaulieu , and Stephen Buchbinder were present for the project. New plan (revised date 5-3-11) and revised drainage calculations submitted, with new planting plan and revised analysis by EcoTec. Although grades have not changed, EcoTec now reports there is no change in storm water run-off from original condition, and that there may be slight improvement. Report says that portions of the slope will be lower by up to 5 ft, but it is not clear to me where most of excess soil is going – possibly up hill out of resource area. However, what *has changed* is the planting plan. Request for additional information: Env. Planner has requested sq footage of proposed alteration area in each resource type, but does not have it yet (it is **not** clearly summarized on the drainage report). Env. Planner has also requested the breakdown of seed in the proposed seed mix from supplier, to determine whether it is restricted to native vegetation (native to New England). Applicant now proposes to re-plant a portion of the central lower slope back in turf, an abutting area upslope and around the sides of the first area would be re-planted as “turf rough”, and the upper part of the slope – out of riverfront but partly in the 100 ft buffer to BVW would be planted with a “meadow mix” seed mixture. This latter area would be mown annually, and might be planted with additional woody, low-growing natives, such as brambles (in blackberry family), sweet fern, low-bush blueberry. However, the commission really has no say over this area unless it determines that re-grading and planting a meadow mix in the buffer zone will alter adjacent wetland or riverfront areas.

So, the areas to be considered are the portions in riverfront – where most of the soil removal seems to be occurring, which will subtly alter the direction of flow , if not the rate. EcoTec report states there is no practicable and substantially equivalent economic alternative (10.58(4))..... but the continuation of this requirement is, “**with less impact to the resource area.**” **Applicant has provided absolutely no costs for comparison, and given the prior plan, there are clearly other alternatives** that may have less impact to the riverfront. The work proposed is re-development (the area was previously developed, without ‘degradation’) of a riverfront area under 10.58(5), with the minimum requirement that proposed work **shall improve the ability of the resource area to protect the interests** under the Act. Planner does not see any improvement to the resource area – the prior plan, (with commission requirement for on-going condition to maintain the native woody blueberry plantings on the slope) was better.

Meeting: Paul McManus of EcoTec flagged the wetland line and Anne checked it. Soil logs were also submitted. The BVW has altered vegetation but hydric soil conditions. The stream is perennial from the bridge (second bridge east of the property line with 210 Nahanton St.) because of adjacent bordering vegetated wetland. Currently the hillside is all manicured turf. It was steeper in the 1930s, and the plan is to return it to the former design, and plant part of it in “meadow” mix, a Fescue grass mix that grows about a foot high, and mow once a year. They will cut the sod, roll it, and store to re-use. Equipment to enter from Nahanton, moved in on plywood sheets to distribute the weight of the bulldozers. They will aerate the ground after the project is completed. Effect of work on drainage characteristics will be a slight increase in infiltration and slight decrease in peak flow. Grading will balance cut and fill. Planner asked how this will improve the riverfront’s ability to protect the interests. Work is proposed to be done in October, and will probably take 2-3 weeks. **Motion to issue Order of Conditions with standard conditions and special condition to aerate the path of the excavation equipment (bulldozer) immediately after the work.**
Seconded. Vote: All in favor. Motion passed.

MBTA Right of Way (through Webster conservation area) RDA-Vegetation Management Plan continued from April to June 23rd, 2011 meeting.

Report: Applicant asked at last meeting to continue to the June meeting. Nothing new at this time.

33 Theodore Rd NOI: Work in flood zone and riverfront with compensatory flood storage

Report: Applicant proposes new addition over existing concrete slab, on piers (set outside slab), and new deck on piers, and calculates alteration of 720 sf , fill of 9.3 cu ft, and with compensatory flood storage of 118 sf over which 1 inch of soil will be removed. Work is in back yard. Front yard closer to river, but higher elevation. Flood water would mostly come in from side – abutter’s property, except that wall along property line (not shown on plan) appears to constitutes a barrier for movement of flood water between this property and abutter. Engineering has not submitted comments, but verbally indicated a corner of the proposed

compensatory flood storage area is outside flood zone/fill area. Also, plan shows “planter” in back yard. This appears to be an outcropping of ledge with plantings around it. If this is the case it should be re-labelled on plan to avoid confusion. There should be no stockpiling in flood zone. Env. Planner believes can approve with above conditions, but need new plan with revised flood storage area.

Meeting: The addition will be on piers over an existing concrete slab with a deck on piers extending over lawn. About an inch of soil will be removed in an area at the end of the driveway to provide compensatory flood storage. Some excavated material will be stockpiled on site a day or 2 while the concrete cures. The plan shows proposed cut for compensatory flood storage would extend area of flood zone. The plan is to create 10.7 cu ft of new flood storage volume – need to submit corrected plan so no extension of flood zone.

Motion to issue Order with standard conditions and special conditions: 1) material excavated shall not be stored above ground in flood zone for more than 2 days (48 hrs), and 2) applicant shall submit new plan showing that construction of compensatory flood storage area does not extend the horizontal distance of the flood zone. Seconded. Vote: All in favor. Motion passed.

56 Broken Tree Rd RDA- Demo and rebuild in the 100 ft buffer zone to BVW and bank

Report: During the site visit, F. Nichols of engineering and Env. Planner observed BVW flags, and the area is pretty well demarcated by an abrupt change in topography and presence of skunk cabbage (10.55 Bordering Vegetated Wetlands). A stream with a very well-defined bank (10.54) flowing at the rear, and partly on this property, is also present. The stream is not shown on the plan – it probably only flows when it is raining. Env. Planner thinks this resource area should be shown on the plan. The lot is pretty flat, and fairly thick vegetation at the rear of the lot offers a buffer to the stream and BVW. As long as erosion and sediment control is properly installed and maintained, there should be no impact to the resource areas.

Recommend negative # 3 with following conditions:

- 1) Silt fence, but **no haybales**, to be installed at location shown on plan, and to serve as the limit of work (no stockpiling outside the silt fence)
- 2) No work shall begin until installation of silt fence approved by Env. Planner
- 3) Applicant shall not alter vegetation (mowing grass is not an alteration) within 15 feet of bank or edge of BVW (whichever is farther) unless prior approval by commission has been obtained

Meeting: Applicant’s representative says the intermittent stream will be added to the plan. The backyard is flat, and no work is proposed on the brushy /shrubby area at the top of the break in slope. **Motion to issue a negative determination #3 with the three conditions recommended (above). Seconded. Vote: all in favor. Motion passed.**

Nahanton Woods RDA-Work in buffer zone to bordering vegetated wetland and to bank, continued from April

Report: Applicant requests continuance to June 23 meeting.

Meeting: Will be continued.

61 Verndale asking for more time to provide new plan for compensatory flood storage (late add)

Meeting: Owner Tatiana Zhang present and said the commission approved their plan for compensatory flood storage in October 2010. However, they decided they do not want to do this, and are trying to come up with a revised plan. They cannot find a good fit for their lot to provide compensatory flood storage. The revised plan recently reviewed by the Env. Planner would require a 5 ft retaining wall at the rear of the property, which would need a special permit. Their engineer is away until June 6. It is difficult to create compensatory flood storage at each elevation where fill has been placed – the revised plan does not meet the requirement for incremental storage. They are asking to extend their time limit to complete the compensatory storage. The OOC required that owners complete the compensatory storage by this meeting.

Motion to extend completion date for compensatory storage to the September meeting (Sep. 21, 2011). Seconded. Vote: All in favor. Motion passed.

New Alternates – The commission welcomed Barbara Huggins, a new alternate member who lives on Albemarle Road.

Violations (new and updates):**73 Beaconwood Rd. EO (late add)**

Meeting: EO issued by Env. Planner on May 23, after witnessing fill being placed in a bordering vegetated wetland and flood zone at 73 Beaconwood, in contradiction of various prior communications with the owner, including a prior filing by the owner to fill in his backyard wetland, which was denied by the commission and by DEP upon appeal, and which additional appeal was eventually withdrawn. Env. Planner has consulted with the Law Department prior to issuance of the Order, and regarding subsequent recommendations to the commission. Env. Planner asks the commission to ratify the EO (as required by 310 CMR 10.08 (3) to be enforceable, and advises the commission it can be amended by them. **Motion to ratify EO and amend it to 1) direct Law Department to record Order at the Registry, 2) require removal of all fill within 30 days, and 3) require a restoration and wetland improvement plan be submitted within another 30 days (60 days) from the date the EO is issued. Second. Vote: All in favor.**

320-322 Needham St. EO – Correspondence from representative re restoration plan, plus

Meeting: Letter submitted from attorney Alan Schlesinger, read aloud by I. Wallach. I. Wallach. I. Wallach and Env. Planner will draft a response.

75-85-95 Wells Av. Violation-Improper snow disposal

Meeting: Nothing new. Env. Planner still working with them.

193 Oak St. Village Condos EO – O&M plan to be approved

Meeting: Nothing new. Env. Planner still working with them.

25-27 Christina St. EO – O&M plan to be approved

Meeting: Env. Planner said O&M plan, recently submitted, is satisfactory (it matches agreed-to plan of prior Order of Conditions for this property and 320 Needham St.), and they have provided language to incorporate snow disposal into current contract, and they have provided proof that all catch basins on their property have been cleaned. They ask the commission to lift EO, and Env. Planner recommends it. Motion to lift EO. Seconded. Vote: All in favor. Motion passed.

Certificates of Compliance:

77 Florence St. – As-built and letter received

77 Florence St.- Received as-built plan & letter from engineer that work in compliance

46 Heatherland Rd.-As-built and letter received

Meeting: As-built and letter substantiated by site visit. Yard has been re-stabilized. **Motion to issue COC. Seconded. Vote: All in favor.**

100 Boulder Rd.– Hay bales not removed from flood zone-not ready*

36 Hyde Av. – Continue-not ready

76 Hyde Av. – Continue-not ready

Report: During review for COC, Env. Planner found discrepancies in plans and work and issued a Notice of Violation, asking for revised As-built plan, follow-up site visit, and filing of NOI. Applicant has submitted letter asking for issuance of Enforcement Order, under which they propose to do corrective work for expired OOC and for work performed after expiration of old Order. However, if the commission issues EO ahead of proposal, then burden on commission to show alteration of resource area. Env. Planner has asked applicant to submit a proposal for what work would be done under an EO.

Discussion/Reports:

36 Hyde Avenue – Seeking sign-off for CO but not ready for Certificate of Compliance

Off-leash Dog Park @ Norumbega – Bob DeRubeis will let you know when he is ready w/new proposal

Meeting: Env. Planner reported that a new proposal will be submitted to commission at some time in future, and Bob DeRubeis will present it at that time.

Plaque for Helen in Riverway CA – Report on telephone conversation with Janice Heyn Meisenhelder

Report: Per telephone conversation, daughter-in-law asking if commission has rules/policy about placing plaque.

Meeting: Following report, commission asked that Env. Planner see what policy the commission has issued regarding plaques.

Announcements & General Business:

April 28th, 2011 Meeting Minutes for approval

Meeting: Motion to approve minutes of April 28, 2011. Seconded. Vote: All in favor. Motion passed.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner